

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CALVIN FINCH,

Plaintiff,

v.

No. CIV 15-01080-JB/LAM

FNU LNU,

Defendant.

ORDER GRANTING APPLICATION TO PROCEED IN FORMA PAUPERIS
AND FOR AN AMENDED PETITION

THIS MATTER is before the Court *sua sponte*, under Rules 4 and 11 of the Rules Governing Section 2254 Cases in the United States District Courts, for preliminary consideration of what the Court will construe as “Petitioner Calvin Finch’s Petition Under 28 U.S.C. § 2254 For a Writ of Habeas Corpus By a Person in State Custody” (hereinafter, “Petition”), filed on November 23, 2015. [*Doc. 1*] Also before the Court is Petitioner’s *Application to Proceed in District Court Without Prepaying Fees or Costs* (hereinafter “Application”) (*Doc. 2*) pursuant to 28 U.S.C. § 1915, filed on November 23, 2015. The Court will grant the Application and order Petitioner to file an amended petition.

The Petition is not on a standard form nor does it substantially follow the standard form, as required by Rule 2(d) of the Rules Governing Section 2254 Cases in the United States District Court. Additionally, the Petition does not name a respondent, “state the facts supporting each ground,” or “state the relief requested” and is “not signed under penalty of perjury” as required by Rules 2(b) and (c) of the Rules Governing Section 2254 Cases in the United States District Court. Therefore, the Court will require Petitioner to file an amended petition, within thirty days (30) of the date of this Order, which complies with Rule 2 of the Rules Governing Section 2254

Cases in the United States District Court. ***Failure to file an amended petition conforming to this Order may result in dismissal of this proceeding without further notice.***

Lastly, the Court notes that federal habeas review under 28 U.S.C. § 2254 “is limited to alleged ‘violation[s] of the Constitution or laws of the United States.’” *Harris v. Champion*, 15 F.3d 1538, 1557 (10th Cir. 1994) (quoting 28 U.S.C. § 2254)). Thus, this Court cannot review any alleged errors of state law. *Id.*; see also *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991) (“[I]t is not the province of a federal habeas court to reexamine state court determinations on state law questions. In conducting habeas review, a federal court is limited to deciding whether a conviction violated the Constitution, laws, or treaties of the United States.”).

IT IS THEREFORE ORDERED that Petitioner’s ***Application to Proceed in District Court Without Prepaying Fees or Costs*** (Doc. 2) pursuant to 28 U.S.C. § 1915 is **GRANTED**;

IT IS FURTHER ORDERED that, within thirty (30) days of the date of this Order, Petitioner shall file an amended petition on the standard form provided by the Clerk, which conforms to this Order;

IT IS FURTHER ORDERED that the Clerk is directed to mail to Petitioner, together with a copy of this Order, a standard § 2254 petition form

IT IS SO ORDERED.


LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE